IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

TUESDAY, THE 24TH JULY 2007 / 2ND SRAVANA 1929

Crl.Rev.Pet.No. 2503 of 2007()

SC.263/2003 of ASSISTANT SESSIONS COURT, KATTAPPANA

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REVN. PETITIONER: PW 1 & 2/DEFACTO COMPLAINANT:

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1. SIVASANKARA PILLAI, S/O.GANGADHARAN PILLAI, KURUPPAMPARAYIL, CHELIMADA KARA, KUMILY, IDUKKI DISTRICT.

2. VALSALA, W/O.SIVASANKARA PILLAI, KURUPPAMPARAYIL, CHELIMADA KARA, KUMILY, IDUKKI DISTRICT.

BY ADV. SRI.P.JACOB VARGHESE
SRI.VARUGHESE M EASO
SMT.PRAISHEEL PRAKASAM
SRI.VIVEK VARGHESE P.J.
SRI.V.MANOJ KUMAR
SRI.K.B.ARUN

RESPONDENTS: ACCUSED:

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1. BENNY , S/O.JOSEPH, AGED 29 YEARS, DRIVER, PEZHUMKATTIL HOUSE, VELLARAMKUNNU KARA, PERIYAR TALUK.

2. STATE OF KERALA, REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA.

BY ADV. SRI.RAJA VIJAYARAGHAVAN
SRI.M.T.SURESHKUMAR
PUBLIC PROSECUTOR SRI.K.S. SIVAKUMAR

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 24/07/2007, ALONG WITH CRRP NO. 2850 OF 2003 THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V. RAMKUMAR, J.

Crl.R.P. Nos. 2850 of 2003
and
2503 of 2007

Dated: 24th July 2007

O R D E R

The common revision petitioners are husband and wife of whom the first revision petitioner is the husband / de facto complainant and the 2nd respondent petitioner is the wife the alleged injured. They challenge the orders of acquittal passed by the Assistant Sessions Judge, Kattappana in Sessions Case Nos. 6/2001 and 263 of 2003. As per the judgment in Sessions Case No. 6 of 2001 the Assistant Sessions Court had acquitted accused Nos. 1 to 11 and 13 to 16 of the offences punishable under Section 395 I.P.C. . The case against A12 who was absconding was re-filed. As per judgment dated 18-7-2005 in S.C. 263 of the Assistant Sessions Court acquitted A12 also who was subsequently tried for the very same offence. These two acquittals are assailed in these revisions filed at the instance of the de facto complainant and his wife.

2. The case of the prosecution is that at about 8 a.m. on 22-7-1998 the 15 accused persons joined together and came to the house – shop in the occupation of PWs 1 and 2 to a place called

Chelimada situated to the south of Kottayam-Kumali road and after trespassing into the shed they pulled it down and manhandled P.W.2 the wife of P.W.1 causing injuries to her and also committed mischief to the furniture and other articles kept in the shed and dishonestly removed the same in a mini lorry and a jeep. It is the case of the prosecution that during the attack on P.W.2 she lost a gold chain bearing ½ a sovereign. In both the independent judgments, the Assistant Sessions court took note of the fact that P.Ws 1 and 2 did not even succeed in showing that the property in question where the shed was put up belonged to them and that there was irreconcilable contradictions in the testimonies of P.Ws 1 and 2 giving rise to a reasonable doubt regarding the alleged commission of the offence by the accused persons. The trial court has even observed that the injuries on P.W.2 could be self inflicted with a view to false implication. In both the judgments, the trial judge has given valid reasons as to why the prosecution case cannot be believed. The finding recorded by the trial judge who had the unique advantages of seeing the witnesses and assessing their credibility cannot be said to be illegal or perverse so as to warrant interference by this Court sitting in the rarefied revisional jurisdiction. The whole fate of the case turned upon the appreciation of the oral evidence for which this court

is at a disadvantage for not being able to see the demeanor and gouging their testimonial fidelity. I therefore, did not find any good ground to interfere with the orders of acquittal recorded by the respective trial judges.

These revisions are accordingly dismissed.

V. RAMKUMAR, JUDGE.

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